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May 27, 1997

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*BY HAND DELIVERY*

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, DC 20554

**Re: Application by SBC Communications, Inc., Southwestern  
Bell Telephone Company and Southwestern Bell  
Communications Services, Inc. d/b/a Southwestern Bell  
Long Distance for Provision of In-Region InterLATA  
Services in Oklahoma (CC Docket 97-121)**

Dear Mr. Caton:

Pursuant to the FCC's Public Notice DA97-753, released April 11, 1997, enclosed for filing in the above-referenced docket are the original and eleven copies of the "Reply Comments of WorldCom In Opposition To SBC Application For InterLATA Authority In Oklahoma."

Please return a date-stamped copy of the enclosed (copy provided)

Respectfully submitted,



Linda L. Oliver  
Counsel for WorldCom, Inc.

Enclosures

cc: Regina Keeney, Chief, Common Carrier Bureau  
Court Clerk, Oklahoma Corporation Commission  
ITS

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, D.C. 20554

MAY 27 1997

In the Matter of )

)  
Application by SBC Communications, Inc., )  
Southwestern Bell Telephone Company, )  
and Southwestern Bell Communications )  
Services, Inc. d/b/a Southwestern Bell )  
Long Distance for Provision of In-Region, )  
InterLATA Services in Oklahoma )

CC Docket No. 97-121

**REPLY COMMENTS OF WORLDCOM, INC.  
IN OPPOSITION TO SBC APPLICATION  
FOR INTERLATA AUTHORITY IN OKLAHOMA**

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May 27, 1997

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| Services, Inc. d/b/a Southwestern Bell    | ) |                      |
| Long Distance for Provision of In-Region, | ) |                      |
| InterLATA Services in Oklahoma            | ) |                      |

**REPLY COMMENTS OF WORLDCOM, INC.  
IN OPPOSITION TO SBC APPLICATION  
FOR INTERLATA AUTHORITY IN OKLAHOMA**

WorldCom, Inc., by its attorneys, hereby submits its reply comments in opposition to the application of SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance ("SBC") for authority to provide in-region interLATA services in Oklahoma, filed on April 11, 1997, pursuant to Section 271 of the Telecommunications Act of 1996. 1/ The comments filed by other parties support WorldCom's conclusion that SBC has not satisfied the requirements of Section 271 at this time. Accordingly, SBC's application must be rejected.

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1/ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (hereafter "1996 Act" or "Act"), 47 U.S.C. § 271.

## SUMMARY

In its initial comments in opposition to SBC's application, WorldCom demonstrated that the application must be rejected because SBC could not satisfy the requirements of Section 271(c)(1)(A) -- "Track A" -- or Section 271(c)(1)(B) -- "Track B." 2/ WorldCom explained that Track A was not satisfied because no competitive carrier in Oklahoma offers service to residential customers and that Track B was not available because SBC already had received requests for interconnection. 3/ WorldCom also demonstrated that SBC has not satisfied the competitive checklist and that interLATA entry would not be in the public interest at the present time. 4/

The original comments filed in this case confirm WorldCom's initial conclusions. The record establishes that no residential customer in Oklahoma has a choice of local exchange providers at the present time. 5/ A primary reason for this lack of competition is SBC's noncompliance with the requirements of the Act, in

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2/ Comments of WorldCom, Inc. in Opposition to SBC Application for InterLATA Authority in Oklahoma at 2 ("WorldCom Comments").

3/ WorldCom Comments at 7, 11.

4/ WorldCom Comments at 25, 44.

5/ Opposition of Brooks Fiber Properties, Inc. to Application of SBC Communications, Inc. at 6 ("Brooks Opposition").

particular the requirement to provide nondiscriminatory access to unbundled network elements and operational support systems. 6/

Not surprisingly, the comments filed by the other BOCs gloss over the lack of competition in Oklahoma and SBC's failure to provide unbundled network elements, and instead urge the Commission to approve the application under Track B. The BOCs advocate an interpretation of Section 271 in which Track B becomes the general rule, rather than a limited exception, and in which the presence of competition and the actual provision of checklist items are not relevant factors. 7/ The Commission must reject the BOCs' attempts to manipulate the language of Section 271 in ways that eviscerate the fundamental purposes of the Act. As we show below, the BOCs' interpretation of Section 271, and in particular their view on the availability of Track B, is based on flawed legal reasoning. If that legal interpretation were adopted, local competition would be halted before it even starts. Because SBC has received requests for interconnection, Track A is the only track it may pursue, as the Department of Justice has pointed out. SBC's failure to point to any competing provider of local exchange service to residential customers is fatal, in and of itself, to SBC's ability to demonstrate compliance with the "competitive presence test" of Track A (Section 271(c)(1)(A)).

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6/ See Brooks Opposition at 10.

7/ Bell Atlantic Comments at 8; BellSouth Comments at 5.

The FCC therefore need not and should not address, in connection with this application, whether SBC has satisfied the competitive checklist or whether the public interest would be met by SBC's entry. If the Commission does address checklist compliance, it must conclude that SBC has failed to satisfy a number of checklist items, as demonstrated by the Department of Justice and by a number of other parties. Finally, if the FCC reaches the public interest analysis, it should agree with the Department of Justice (whose views are entitled to substantial weight) that the public interest would be harmed by SBC's entry into the interLATA market in Oklahoma at this time.

**I. THE BOCS' LEGAL ARGUMENTS MUST BE REJECTED.**

Because the facts so clearly weigh against granting SBC's application, the other BOCs have focused their efforts on convincing the Commission to interpret the Act so as to virtually eliminate the substantive requirements of Section 271. WorldCom explained fully its interpretation of Section 271 in its earlier pleadings and will not exhaustively repeat that analysis here. Nevertheless, we are compelled to reply to the arguments advanced by the BOCs because their positions would strip Section 271 of all its vitality, resulting in premature interLATA entry on a massive scale and the likely end of local competition before it has a chance to develop.

**A. The BOC's Interpretation Of Track B Incorrectly Assumes That Congress Did Not Understand The Realities Of The Marketplace.**

Perhaps the most important question to be resolved in this case is whether Track B is available to SBC. Specifically, SBC and the other BOCs have argued that Track B is available in any case in which there has not been a request for interconnection from a competitor that is *already* providing service to residential and business customers predominantly over its own facilities. 8/

WorldCom explained at length why this interpretation of the Act was entirely unreasonable. 9/ The BOCs' argument assumes that Congress thought competitors would be able to provide facilities-based residential and business service *before* requesting interconnection. If this were true, which it is not, then there would have been no need for the Act's interconnection provisions in the first place. In support of their theory, the BOCs point to legislative history discussing the potential for cable systems to offer facilities-based competition and the fact that some competitive access providers had interconnection agreements that pre-dated the Act. 10/

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8/ SBC Brief at 14; Comments of Bell Atlantic at 8; Comments of BellSouth at 5.

9/ WorldCom Comments at 18-19.

10/ Bell Atlantic Comments at 13.

Neither of these references to the legislative history carries the weight attributed to it by the BOCs. In discussing cable companies, the Conference Report states that the ubiquity of cable facilities means that “meaningful facilities-based competition is *possible*,” that the initial efforts of cable operators “*hold the promise*” of providing competition in residential telephony, and that large companies are “actively *pursuing plans* to offer local telephone service.” 11/ Nothing in this discussion indicates that Congress thought facilities-based competition for residential and business services was imminent or that it could develop before a carrier requested and obtained interconnection under the Act. Similarly, while the Conference Report acknowledges that Cablevision entered into an interconnection agreement with the “*goal* of offering telephony,” 12/ that single example hardly can be read to express an expectation that pre-1996 agreements, standing alone, would be a sufficient basis for those competitors to provide facilities-based residential and business service.

Significantly, the Department of Justice has taken a position that is entirely consistent with WorldCom’s:

[There is no] reason to believe that Congress expected competitors would be providing service to residential and business customers without an implemented agreement for interconnection and access. To the contrary, the 1996 Act was premised

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11/ Conference Report at 148 (emphasis added).

12/ Id (emphasis added).

on Congress' understanding that, at least in the short run, such agreements will normally be an essential prerequisite to effective local exchange service competition. 13/

The consequences of adopting the BOCs' interpretation of this provision -- which reveals their anticompetitive intent -- would be staggering. As explained by the Department of Justice, "reading the phrase 'such provider' in Track B to require not only that the firm be seeking to provide services that satisfy Track A, but also that it already be providing them, would essentially read Track A out of the statute." 14/ If the BOCs could proceed under Track B as a general rule, rather than a limited exception, interLATA entry would precede the introduction of local competition in virtually every state. Because the "carrot" of interLATA entry is the primary incentive for the BOCs to cooperate with potential competitors, permitting Track B to become the routine path for interLATA entry would eliminate all incentive for cooperation by the BOCs and destroy any chance for Congress' vision of a competitive local market to be realized.

**B. A BOC Must Actually Provide Checklist Items To Satisfy The Requirements Of Track A.**

One of the critical issues presented by SBC's application is what steps a BOC must take in order to satisfy the Track A requirement that it "provide" a

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13/ DOJ Evaluation at 15.

14/ DOJ Evaluation at 16.

checklist item as required by Section 271(c)(2)(B). As WorldCom explained in its initial comments, the legislative history supports the position that Congress intended the requirement that a BOC provide each item to mean that a competitor must actually be using each item. <sup>15/</sup> Congress used the term “provide” for Track A and the term “generally offer” for Track B, and the Commission cannot interpret the two to mean the same thing. <sup>16/</sup>

The Oklahoma Corporation Commission (“OCC”), in its comments supporting the SBC application, failed to recognize that each of these two terms are different and that they apply to different circumstances (Track A versus Track B). <sup>17/</sup> The OCC’s conclusion that SBC has satisfied Track A appears to be based on a finding that SBC is generally offering the checklist items, not that it is providing them to competitors. <sup>18/</sup> Consequently, because its position is based on an incorrect interpretation of the statute, the OCC’s conclusions are not entitled to deference.

Track A and Track B are mutually exclusive avenues for BOC interLATA entry. As demonstrated above, a BOC cannot satisfy Track A unless it is providing interconnection and access under agreements with one or more

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<sup>15/</sup> WorldCom Comments at 25.

<sup>16/</sup> WorldCom Comments at 26.

<sup>17/</sup> Comments of the Oklahoma Corporation Commission at 3.

<sup>18/</sup> Comments of the Oklahoma Corporation Commission at 8.

facilities-based competitors. In contrast, Track B may be satisfied by a general offering in an SGAT. By using these contrasting terms -- "providing" and "generally offering" -- the competitive checklist requirement of Section 271(c)(2)(B) preserves this distinction between *providing* under Track A and *generally offering* under Track B. 19/

Permitting a BOC to satisfy Track A through a general offering in an SGAT would be inconsistent with the intent underlying Track A and the statutory requirement that a BOC "provide" (rather than "generally offer") every checklist item. Track A is intended to be a "reality test" under which the BOC must prove that interconnection, unbundled network elements and resale work in practice, not just in theory. 20/ BellSouth asserts that the theoretical availability of checklist items is all that matters under Section 271(c)(2) and that whether the BOC provides these items is relevant only to the demonstration of the presence of facilities-based competition under Section 271(c)(1). 21/ This ignores the fact that every CLEC, including every potential facilities-based competitor, initially will be dependent on interconnection, unbundled elements and/or resale obtained from the BOC. If a BOC were permitted to satisfy the competitive checklist without actually providing certain items, such as unbundled switching, the BOC would have no

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19/ Petition to Deny of Sprint Communications Company, L.P. at 18-19.

20/ WorldCom Comments at 8.

21/ BellSouth Comments at 7-8.

incentive to resolve the substantial implementation problems that will arise when CLECs first attempt to use those items. 22/

The BOCs acknowledge that Track A requires provision of the checklist items, but they take the position that this requirement is satisfied merely by including an item in an interconnection agreement. 23/ The fallacy of the BOCs' legal arguments is demonstrated by the reality facing competitors in Oklahoma. For example, Brooks has requested physical collocation in a number of SBC offices. The first of these requests was made almost a year ago, but none of these requests has yet been granted. 24/ Under any reasonable interpretation of the term "provide," SBC is not "providing" physical collocation. Under the BOCs' interpretation of the Act, however, SBC would still be deemed to have satisfied its obligation to "provide" physical collocation because it is theoretically "available"

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22/ BellSouth's argues that reading of "provide" to mean *actually* provide would allow IXC's to hold the BOC hostage by not requesting checklist items. BellSouth Comments at 11; see also Bell Atlantic Comments at 3-4, 7. This is pure fiction. 22/ As an IXC that is also providing competitive local exchange service over its own facilities in many states, WorldCom can state that no such incentive exists. WorldCom has a strong incentive to provide local services so as to distinguish itself from other IXC's and to establish itself as a full service provider. If WorldCom intended to avoid providing local service in order to hold the BOCs hostage, it certainly would not have invested \$12 billion in its acquisition of MFS, the nation's leading competitive local exchange carrier. It would not also currently be spending over \$600 million on additional local network facilities.

23/ Bell Atlantic Comments at 7.

24/ Brooks Opposition at 20.

under Brooks' agreement with SBC. 25/ To the BOCs, the paper offering is more important than whether the item is actually made available when it is requested.

SBC certainly is not actually providing many checklist items, nor does it come close to satisfying the definition of "provide" advocated by the Department of Justice. Under this definition, a BOC is providing an item if it (1) has an agreement with the recipient that includes complete prices, terms and conditions and (2) demonstrates it is willing and able to satisfy requests for the item promptly, at acceptable quality levels, and at quantities that may be demanded by competitors. 26/ The Department cited with approval the similar approach taken by the Hearing Examiner in Illinois and by the Georgia Public Service Commission, which emphasized the practical ability of requesting carriers to obtain and use the checklist items. 27/ At a minimum, then, the standard proposed by the Department of Justice requires that the BOC actually honor competitors' requests when they are made, and that the BOC demonstrate that the operational support systems needed

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25/ The obligation to provide physical collocation under Section 251(c)(6) is not specifically incorporated in the competitive checklist, but the obligation to provide interconnection at any technically feasible point under Section 251(c)(2) is part of the checklist. In addition, Brooks has demonstrated that the unavailability of physical collocation prevents it from obtaining unbundled loops under Section 251(c)(3), which also is a checklist item. Brooks Opposition at 11. BellSouth Telecommunications, Inc.'s Statement of Generally Available Terms and Conditions under Section 252(f) of the Telecommunications Act of 1996, Docket No. 7253-U, Order Rejecting Statement (Ga. PSC March 21, 1997).

26/ DOJ Evaluation at 23.

27/ Department of Justice Evaluation at 24 n.31.

to provide the item are fully tested and glitch-free. As the Department and others have shown, SBC falls short on both counts.

## **II. SBC DOES NOT SATISFY THE REQUIREMENTS OF TRACK A.**

### **A. SBC Cannot Satisfy the Track A “Competitive Presence” Test Because There Is No Residential Competition In Oklahoma.**

An application under Track A must fail unless the BOC can demonstrate that it is providing access and interconnection to a competitor that provides service to residential and business customers predominantly over its own facilities. 28/ Congress included this “competitive presence” test because actual competition is the best evidence that the requirements of Section 271 have been met. As stated by the Department of Justice:

Actual evidence of competition is much more persuasive and informative than theoretical claims that markets are open to entry, for there have been erroneous predictions of local competition ever since the AT&T divestiture. 29/

In this case, there is no residential competition of any kind in Oklahoma, and only the barest competition for business customers. Brooks is serving approximately 20 business customers through its own facilities or T-1 lines

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28/ 47 U.S.C. § 271(c)(1)(A).

29/ DOJ Evaluation at 44.

purchased from SBC. 30/ The only residential service Brooks provides is “test circuits activated to the residences of four of its Oklahoma employees. These test circuits are all provided through resale of SWBT’s local exchange service.” 31/ As the Department of Justice states, test customers simply do not count under Track A, and SBC therefore fails to meet the threshold requirements of Track A for that reason alone. 32/

When presented with these facts, the OCC somehow concluded that Track A was satisfied. The OCC relied on its perception that there are no “impediments to Brooks being able to operate consistent with its internal business plan” and the fact that “neither Brooks nor any other CLEC brought any complaints or concerns to the OCC regarding the availability of any checklist item.” 33/ The OCC’s assertion that there are no impediments to Brooks providing facilities-based local service to business and residential customers cannot be reconciled with Brooks’ year-long quest for physical collocation or with the general absence of

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30/ Brooks Opposition at 13 n.11.

31/ Brooks Opposition at 6.

32/ The Department did not state its views on the adequacy of SBC’s showing with respect to business customers. For the reasons given in WorldCom’s initial comments, 20 business customers falls far short of any reasonable reading of the requirement of Track A. The FCC need not reach this question however, because it can deny SBC’s application on the ground that it failed to demonstrate the existence of *any* residential customers served by an SBC competitor.

33/ OCC Comments at 6.

operational support systems. Brooks has invested millions of dollars in Oklahoma but until it can purchase unbundled loops from SBC in a timely, reliable manner it will be unable to compete in the residential market.

Similarly, the lack of complaints against SBC hardly means that SBC has been cooperative or that it is satisfying the requirements of the Act. As Brooks explains, it chose to negotiate an agreement with SBC because the costs of arbitrating an agreement were prohibitive. 34/ Just as the fact-finding required in an arbitration before the state commission is expensive, so too is the fact-finding that would be required in a complaint proceeding. Consequently, the lack of complaints against SBC demonstrates only that SBC's competitors have limited resources to spend on litigation, not that SBC's conduct does not warrant the filing of a complaint.

In sum, the OCC's analysis of the situation ignored critical facts that were on the record. The fact that no residential customer yet has a choice of local service providers is conclusive evidence that the requirements for Track A have not been satisfied in Oklahoma.

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34/ Brooks Opposition at 26-28.

**B. The Lack of Competition in Oklahoma is Due in Large Measure to SBC's Failure to Provide Checklist Items Upon Request.**

When there is virtually no actual local competition, as is the case in Oklahoma, the critical question is whether the lack of competition is due to some action or inaction by the BOC. As stated by the Department of Justice:

Where a BOC seeks to provide interLATA service despite the absence of successful entry, it will be necessary to take a much harder look at the record to determine whether it has cooperated fully and done everything needed to make entry possible, or whether barriers to entry still exist. 35/

In this case, there is substantial evidence that SBC has been uncooperative, if not openly hostile, to potential competitors. For example, a potential facilities-based competitor like Brooks will depend heavily on SBC's unbundled loops, which it will access through physical collocation in SBC's central offices. Obtaining physical collocation, however, has proven to be impossible. Over the last 10 months, Brooks has requested collocation in 13 of SBC's offices, yet none of these requests has been completed. 36/ Brooks attributes this failure to "processing procedures which Brooks has found to be overly bureaucratic, confusing and inflexible" and to "extended SWBT construction schedules," both factors which are entirely within SBC's control. 37/ Moreover, because of SBC's failure to provide

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35/ DOJ Evaluation at 48.

36/ Brooks Opposition at 19-20.

37/ Brooks Opposition at 20.

physical collocation, Brooks effectively is being denied access to unbundled loops, which are in theory “available” under Brooks agreement with SBC.

SBC has not made it any easier for competitors that hope to provide service through resale. The experience of reseller U S Long Distance (“USLD”) in Texas demonstrates that it is unlikely SBC will be able to provide resale upon request in accordance with the requirements of the Act. Despite the fact that USLD and SBC have had an interconnection agreement for eight months, SBC “continues to insist upon a lead time of at least 150 additional days to actually install interconnecting trunk groups.” 38/ Furthermore, USLD states that SBC did not even offer any electronic interfaces prior to March 1997 and that USLD had to manually fill out a form and fax it to SBC for each resale account it wanted to transfer. 39/ After finally proposing to offer OSS, as the Act requires, SBC informed USLD that there would be a charge of \$3200 per month, regardless of the number of orders processed. 40/

At a minimum, the capability to provide checklist items means that requests for such items will be honored within a reasonable time frame. SBC plainly has not met this standard in Oklahoma with regard to physical collocation, unbundled loops and resale, and its performance creates substantial doubts that it

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38/ Opposition of U S Long Distance at 9.

39/ Opposition of U S Long Distance at 8.

40/ Id.

could provide other elements that it claims to offer, such as unbundled local switching.

**III. TO SATISFY THE COMPETITIVE CHECKLIST, A BOC MUST PROVIDE NONDISCRIMINATORY ACCESS TO OPERATIONAL SUPPORT SYSTEMS.**

WorldCom explained in its initial comments opposing the SBC application that nondiscriminatory access to operational support systems was perhaps the most critical element that CLECs must obtain from a BOC. 41/ Without OSS, a potential competitor will not be able to use unbundled network elements or resale to offer a service that is truly competitive with the service offered by the BOCs.

The Department of Justice correctly recognized that nondiscriminatory access to OSS must be a prerequisite to BOC interLATA entry. As stated in the Department's evaluation:

[M]eaningful compliance with the requirement that the BOC make available resale services and access to unbundled elements demands that the BOC put in place efficient processes, both electronic and human, by which a CLEC can obtain and maintain these items in competitively-significant numbers. 42/

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41/ WorldCom Comments at 40.

42/ DOJ Evaluation at 26.

The Department also recognized the difficulties inherent in providing this access to the BOC's systems:

[N]on-discriminatory access will be dependent on the BOC's development and implementation of complex technology that differs in important respects from anything done before, and does not merely involve the provision of simple, well-established services that have been operating for some time. 43/

Furthermore, the Department's observation that providing nondiscriminatory access to OSS will be a difficult task does not even factor in the complete reluctance of the BOCs to undertake such an effort in the first place. The problems that have plagued potential competitors in Oklahoma demonstrate both the technical issues surrounding development of OSS and the impact of SBC's incentive to provide the least support possible to competitors. AT&T explained in its comments that "SBC has resisted making serious efforts to develop, let alone test, electronic interfaces for serving customers via the platform and other combinations of unbundled elements." 44/ If these critical interfaces has not even been developed, it is clear that SBC is not providing access to these systems that is sufficient to meet the requirements of Section 271.

Furthermore, merely providing access to OSS is not enough. Rather, SBC must demonstrate that the access it provides is nondiscriminatory, as required

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43/ DOJ Evaluation at 45 n.55.

44/ AT&T Comments at 30.

under the Act. SBC will not be able to make this showing until it adopts a set of performance measures and performance benchmarks to ensure continued, reliable performance of its support systems. As explained by the Department of Justice, however, "SBC has not agreed to report its performance in several areas critical to CLEC entry," such as installation and repair intervals. 45/ Until SBC agrees to measure and report its performance, there is no way to ensure that SBC is meeting the requirement to provide access to OSS on a nondiscriminatory basis and therefore no way to conclude that it has satisfied Section 271. The inclusion of such performance standards in service contracts is standard telecom industry practice. WorldCom's own wholesale carrier customers demand no less.

An additional deficiency in the application, as USLD correctly points out, is that SBC does not even purport to establish that it can switch a local exchange customer as quickly as it processes PIC changes for long distance carriers. 46/ As WorldCom stated in its initial comments, BOCs will compete post-271 entry by offering full service packages of local and long distance service. Potential competitors to SBC will be at a substantial competitive disadvantage if SBC can convert customers to its long distance service faster and cheaper than competitors can convert customers to their local service. 47/ The Commission

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45/ DOJ Evaluation at 60; AT&T Comments at 32.

46/ USLD Comments at 12.

47/ WorldCom Comments at 5-6.

recognized this fact in the Interconnection Order when it required ILECs to make any conversion that did not require a physical change in facilities at parity with PIC changes for IXCs. 48/ Until SBC affirmatively demonstrates that it can meet this standard, the Commission cannot approve its Section 271 application.

**IV. SBC HAS FAILED TO PROVIDE A NUMBER OF OTHER CHECKLIST ITEMS IN ACCORDANCE WITH THE ACT'S REQUIREMENTS.**

In addition to the problems identified above with regard to SBC's offering of OSS, the comments identified a number of other serious deficiencies in SBC's offering of checklist items. Our discussion here is not exhaustive, but is intended to give an idea of the substantial implementation problems that will be faced by competitors trying to use a checklist item that purportedly is "available" from SBC in compliance with the Act's requirements. Each of these deficiencies provides an independent basis for rejecting SBC's application.

One of the most striking examples of SBC's failure to provide checklist items is its failure to provide physical collocation. SBC has yet to provide Brooks with physical collocation as required under Sections 251(c)(2) and 251(c)(6), even though Brooks first requested physical collocation almost one year ago. 49/ As noted by the Department of Justice, SBC's "failure to provide physical collocation,

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48/ Interconnection Order at ¶ 421.

49/ Brooks Opposition at 20.

which would enable CLECs to use unbundled elements and to test the OSS interfaces which support these elements, appears to be a region-wide problem.” 50/

SBC’s provision of interim number portability (“INP”) also has been deficient. Interim number portability is “one of the few provisions of SBC’s agreements that any competitor has had the opportunity to use in market conditions in Oklahoma, and the experience is not encouraging.” 51/ Brooks states that there were INP implementation problems with 11 of its first 12 customers. 52/ While SBC’s performance improved somewhat after that, Brooks states that it is still experiencing difficulties. 53/ Moreover, SBC has done nothing to show that it is providing interim number portability in a nondiscriminatory manner “such that a competitor using INP would be able to provide the same level of service to its customers as SWBT provides its own retail customers.” 54/

A third area in which SBC’s offering is deficient is unbundled local switching (“ULS”). As WorldCom explained in its comments, SBC’s proposal to treat a combination of unbundled network elements, or platform, as a disconnect of the customer’s service ensures that competitors will not be able to implement the

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50/ DOJ Evaluation at 32.

51/ DOJ Evaluation at 35.

52/ Brooks Opposition at 23.

53/ Brooks Opposition at 25.

54/ DOJ Evaluation at 35.

platform without prohibitive expense, if at all. 55/ This approach is completely inconsistent with the Commission's requirements governing combinations of elements. 56/

The comments identify additional problems with SBC's ULS offering. As explained by AT&T, "SBC refuses to permit competitors to use the unbundled switch to provide originating or terminating access for 800 service, terminating exchange access, or intraLATA toll service." 57/ This restriction flatly violates the Commission's determination that a carrier purchasing the ULS element becomes the customer's provider of access services. 58/ In addition, SBC has not yet made available one of the essential capabilities of the switch -- customized routing. Customized routing is particularly important to carriers that will compete by offering a platform of unbundled elements, and the Commission's rules specifically require ILECs to provide customized routing. 59/ Finally, because SBC is not actually providing unbundled local switching yet, there may be additional defects in its compliance with this checklist item, as WorldCom noted in its initial comments.

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55/ WorldCom Comments at 33.

56/ 47 C.F.R. § 51.315.

57/ AT&T Comments at 24-25.

58/ Interconnection Order at ¶ 363. See also Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 (released May 16, 1997) at para. 337 ("Access Reform Order").

59/ Interconnection Order at ¶ 412.